

Message Text

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ACTION EB-07

INFO OCT-01 IO-10 OIC-02 AF-06 ARA-10 EA-10 EUR-12 NEA-10

ISO-00 CAB-05 CIAE-00 COME-00 DODE-00 DOTE-00 INR-07

NSAE-00 FAA-00 PM-03 H-02 L-03 NSC-05 PA-02 PRS-01

SP-02 SS-15 USIA-15 AID-05 FRB-01 TRSE-00 XMB-04

OPIC-06 CIEP-02 LAB-04 SIL-01 OMB-01 STR-04 CEA-01

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R 201830Z JUN 75

FM AMEMBASSY LONDON

TO SECSTATE WASHDC 2198

AMEMBASSY DOHA

AMEMBASSY SAN JOSE

INFO AMCONSUL JOHANNESBURG

AMEMBASSY PARIS

AMEMBASSY OTTAWA

AMCONSUL MONTREAL

AMEMBASSY BERN

AMEMBASSY BONN

AMEMBASSY THE HAGUE

AMEMBASSY STOCKHOLM

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AMEMBASSY BUENOS AIRES

AMEMBASSY BRASILIA

AMEMBASSY MEXICO

AMEMBASSY MONTEVIDEO

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AMEMBASSY JAKARTA

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AMEMBASSY WELLINGTON
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AMCONSUL MELBOURNE
AMEMBASSY MOSCOW

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E.O. 11652: N/A

TAGS: PORC, EAIR, ICAO

SUBJ: ICAO DIPLOMATIC CONFERENCE ON REVISION OF HAGUE
PROTOCOL TO THE WARSAW CONVENTION, MONTREAL,
SEPTEMBER 1975

REF: (A) PARIS 15791; (B) LONDON 9363

1. SUMMARY: FOLLOWING SUMMARIZES RESULTS OF CONVERSATIONS ON US 3-POINT PROPOSAL FOR SEPTEMBER AIR LAW CONFERENCE WITH NORWAY/UK REPS. ALSO ANSWERS CERTAIN QUESTIONS RAISED BY EMBASSIES ABOUT US PROPOSAL. NO ACTION REQUIRED. END SUMMARY.

2. ON RECEIPT REFTEL A, WILLIS MET WITH NORWEGIAN REP, K. BRUZCLIUS, TO AGAIN CONSIDER METHODS TO PRODUCE CO-SPONSORED TEXT AT EARLIEST POSSIBLE DATE. ON BASIS OF POSITIVE FRENCH RESPONSE (WE HAVE APPARENTLY BEEN TALKING WITH EUROPEANS MORE THAN THEY HAVE AMONG THEMSELVES), SHE IS OPTIMISTIC THAT EUROPEANS CAN DO A FIRST DRAFT OF A DOCUMENT AT OSLO MEETING JUNE 25-26. THIS WOULD BE WITHOUT PARTICIPATION OF OTHERS. IF SUCCESSFUL, THEY COULD IMMEDIATELY GO TO DESIGNATED POSTS FOR CIRCULATION OF TEXT FOR COMMENT, FOLLOW-UP WITH FINAL TEXT, LOOK FOR ADDITIONAL CO-SPONSORS, AND CIRCULATE IT GENERALLY, THEREBY MEETING TIME SCHEDULE ORIGINALLY PRESSED BY US. THIS SCENARIO WOULD REQUIRE NO, REPEAT NO, DRAFTING SESSION OF LARGER GROUP OF STATES AS CONTEMPLATED PARA 3 REFTEL B. WILLIS CONCURRED AND HOPED THIS WOULD BE THE UNCLASSIFIED

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CASE. BOTH AGREED THERE COULD IN SOME SITUATIONS BE SOME ADVANTAGES TO US NOT TO BE FORMAL CO-SPONSOR OF A TEXT, IF OTHERS WOULD CARRY THE BALL WITH TEXT OF THEIR OWN. THIS, OF COURSE, DEPENDS IN PART ON NATURE OF RESPONSES US GETS TO ITS INITIATIVE ON 3-POINT PROPOSAL. GON WILL BRIEF EMBASSY OSLO ON RESULTS OF JUNE 25-26 MEETING.

2. RE PARA 3 REFTEL A, WILLIS EMPHASIZED TO BRUZCLIUS

THAT US SDR PROPOSAL WAS 100,000, WHICH CURRENTLY HAS VALUE OF ABOUT US DOLLARS 120,000. US PROPOSAL DID NOT RESULT IN EFFECTIVE INCREASE IN LIMIT OF LIABILITY AS CURRENT GUATEMALA LIMIT IS US DOLLARS 120,000. (SINCE IT IS EXPRESSED IN GOLD FRANCS, NOT DOLLARS, AND DOLLAR WAS DEVALUED OFFICIALLY ABOUT 20 PERCENT IN TWO STEPS SINCE 1971.) INDICATED WE WOULD INSIST THAT GUATEMALA BARGAIN BE KEPT TO IN CONVERTING TO SDRS. WE WOULD NOT CONCUR IN ROLLING BACK GUATEMALA LIMITS IN CONVERTING TO SDRS TO UNDO EFFECTS OF U.S. DEVALUATIONS. BRUZCLIOUS AGREED WITH THIS AND FELT IT WAS GENERAL EUROPEAN VIEW. THIS IS CONSISTENT ALSO WITH POSITION IATA SPELLED OUT IN ITS LETTER TO DEPARTMENT. (FYI: US AT GUATEMALA PROPOSED US DOLLARS 100,000 LIMIT BUT THIS WAS REJECTED BY THE CONFERENCE IN FAVOR OF GOLD LIMIT.)

3. FOLLOWING ARE SUPPLEMENTARY COMMENTS ON DISCUSSION OF US THREE-POINT PROPOSAL WITH KEAN AND BRUZCLIOUS MONDAY AND TUESDAY. WE INDICATED US PRELIMINARY THINKING ON POINT 1 (PROCEDURES TO OPEN UP SEPTEMBER CONFERENCE TO CONSIDER GUATEMALA AS WELL AS NEW CARGO RULES TO HAGUE) WAS TO MOVE FOR TWO MAIN COMMITTEES, ONE TO CONSIDER HAGUE AND THE OTHER GUATEMALA, WHEN AGENDA FOR CONFERENCE CAME UP FOR ADOPTION (PROBABLY ON FIRST DAY AT MONTREAL AFTER ELECTION OF OFFICERS). KEAN AND BRUZCLIOUS WERE, FRANKLY, HORRIFIED, AND SAID THIS WOULD

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OPIC-06 CIEP-02 LAB-04 SIL-01 OMB-01 STR-04 CEA-01

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R 201830Z JUN 75
FM AMEMBASSY LONDON
TO SECSTATE WASHDC 2199
AMEMBASSY DOHA
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INFO AMCONSUL JOHANNESBURG
AMEMBASSY PARIS
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DOOM DENTIRE PROPOSAL SINCE SMALL DELEGATIONS WOULD NEVER
ACCEPT, ESPECIALLY COMING FROM LARGE DELEGATION
COUNTRY LIKE US. THEY SUGGESTED ONE MAIN COMMITTEE AND
WORKING GROUPS AS APPROPRIATE -- WORKING GROUPS OF
DESIGNATED MEMBERSHIP BUT OPEN-ENDED SO ANY DELEGATION

THAT WISHES TO COULD PARTICIPATE. WILLIS EXPLAINED THAT US DELEGATIONS ARE NOT SO LARGE ANYMORE, BUT GENERALLY WENT ALONG WITH THEIR VIEWS, AND BELIEVES WE SHOULD ACCEPT THEM AS USG POSITION. PROCEDURAL PROPOSAL WOULD THEN BE LIMITED TO DISCUSSION THAT GUATEMALA BE ADDED TO AGENDA OF CONFERENCE TO DEAL WITH ITS GOLD AND CARGO CLAUSES, BUT WOULD NOT TOUCH ON CONFERENCE COMMITTEE/WORKING GROUP ARRANGEMENTS, WHICH WOULD BE CONSIDERED BY CONFERENCE ON AD HOC BASIS. PROCEDURAL PROPOSAL WOULD BE CONSIDERED AT TIME OF ADOPTION OF AGENDA. ON POINT 3 WE INDICATED OUR PREFERRED POSITION WOULD BE ONE SINGLE NEW INSTRUMENT CONTAINING GUATEMALA PASSENGER AND NEW CARGO PROVISION. OUR SECOND PREFERRED POSITION WOULD BE A NEW INSTRUMENT (WHETHER PROTOCOL TO HAGUE OR STANDING ALONE) CONTAINING CARGO PROVISIONS ONLY SO THAT RATIFICATION NEED ONLY INVOLVE ESTABLISHMENT OF CARGO RELATIONSHIPS AMONG PARTIES. THIS WOULD ALSO REQUIRE MINOR CHANGE TO GUATEMALA SO THAT ITS OLD (HAGUE) CARGO RULES WOULD NOT BE APPLICABLE FOR COUNTRIES RATIFYING GUATEMALA. THE FIRST SOLUTION WE DID NOT THINK WAS PRACTICABLE, BECAUSE OF STRONG VIEW OF SOME COUNTRIES

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THAT THEY SHOULD NOT BE REQUIRED TO BECOME PARTY TO GUATEMALA PASSENGER PROVISIONS WHEN ACCEPTING NEW CARGO RULES. WE THOUGHT SECOND HAD SOME POSSIBILITY, SINCE IT ENABLES COUNTRIES TO TAKE NEW CARGO RULES AND EITHER HAGU OR GUATEMALA PASSENGER RULES AS THEY CHOOSE. THIS SOLUTION WOULD SATISFY FRENCH CONCERNS DESCRIBED PARA 2 REFTEL A, AS THEY COULD RATIFY ALL INSTRUMENTS AND THUS HAVE TREATY RELATIONSHIPS WITH THOSE COUNTRIES PARTY TO HAGUE WHICH DID NOT SUBSCRIBE TO GUATEMALA, AS WELL AS WITH THOSE WHICH TOOK GUATEMALA. A THIRD WORKABLE BUT LEAST DESIRABLE SOLUTION WOULD BE TWO SEPARATE INSTRUMENTS, ONE CONTAINING GUATEMALA PASSENGER AND NEW CARGO RULES, AND THE OTHER CONTAINING HAGUE PASSENGER AND NEW CARGO RULES. WE INDICATED WE COULD LIVE WITH ANY OF THESE SOLUTIONS AND, THEREFORE, RATHER THAN PRESSING FOR ONE PARTICULAR SOLUTION, WISHED TO JOIN A MAJORITY THAT DEVELOPED FOR ANY. FOR THIS REASON WE HAD STATED POINT 3 AS A GENERAL PRINCIPLE, RATHER THAN DRAFTING A SPECIFIC TEXT. AT MONTREAL APRIL MEETINGS, US HAD JOINED WITH SWEDEN AND JAPAN IN A PROPOSAL SETTING OUT THE VARIOUS SOLUTIONS, WHICH IS AN ANNEX TO THE FINAL ICAO REPORT, AND HAS BEEN CIRCULATED TO ICAO MEMBER STATES (COPIES HAVE BEEN AIR POUCHED TO ADDRESSEES). KEAN AND BRUZCLUIS AGREED SECOND SOLUTION HAD BEST CHANCE OF BROAD ACCEPTANCE. HOWEVER, IN VIEW OF COMPLEXITY OF PROBLEM, AND SCATTERING OF VIEWS AS TO BEST APPROACH TO SOLVE IT, THEY WONDERED WHETHER IT WOULD BE BETTER NOT TO TRY TO

GET ADVANCE AGREEMENT ON A PARTICULAR SOLUTION, AND SUGGESTED CO-SPONSORED PROPOSAL DEAL WITH GOLD PROBLEM ONLY. WE RESPONDED THAT POINT ONE -- PROCEDURAL TO OPEN UP SEPTEMBER CONFERENCE TO GUATEMALA CARGO AND GOLD ISSUES -- WAS CRITICAL AND, IF CO-SPONSORED PROPOSAL COULD COVER THAT POINT AND POINT TWO ON SDR CLAUSE, PERHAPS THAT WOULD PROVE TO BE THE MOST WORKABLE FOR BROAD SUPPORT AND EARLY CIRCULATION OF A TEXT.

4. COMMENT: AT THIS STAGE BELIEVE WE NEED TO COOL OUR HEELS. WE HAVE DONE AN INITIAL ROUND OF CONTACT WITH BROAD GEOGRAPHICAL GROUPS OF COUNTRIES. MANY ARE SYMPATHETIC IN PRINCIPLE. FOR 2-3 WEEKS WE OUGHT TO WAIT AND SEE WHAT OTHERS, IN PARTICULAR THE EUROPEANS, UNCLASSIFIED

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ARE WILLING TO DO. HOPEFULLY, OTHERS WILL PUSH THE SECOND ROUND, AND BROAD-BASED SUPPORT WILL DEVELOP FOR IDEAS, OR SOME OF THEM, CONTAINED IN 3 POINT PROPOSAL. IN EVENT COUNTRIES ASK ABOUT STATUS OF DEVELOPMENTS, WE SHOULD ANSWER WE ARE STILL AWAITING SOME REACTIONS, BUT WE, OR OTHERS, WILL PRODUCE MORE CONCRETE PROPOSAL IN NEAR FUTURE (2-4 WEEKS) AS FOLLOW-UP.

5. FOR SAN JOSE: DIFFERENCE BETWEEN POINT 1 AND POINTS 2-3 OF US PROPOSAL IS THAT FIRST IS PURELY PROCEDURAL: TO ACHIEVE MODIFICATION IN CONFERENCE AGENDA SO THAT AMENDMENTS TO GUATEMALA, AS WELL AS TO HAGUE, MAY BE CONSIDERED. PROCEDURAL PROPOSAL WOULD BE TO MODIFY AGENDA, WHEN IT COMES UP FOR ADOPTION, TO INCLUDE AMENDMENTS TO GUATEMALA GOLD CLAUSE AND CARGO PROVISIONS. ON POINT 3, EMBASSY WILL APPRECIATE FROM PARAS L AND 3 ABOVE THAT THE MORE DETAIL INCLUDED THE MORE CONFUSING

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INFO OCT-01 IO-10 OIC-02 AF-06 ARA-10 EA-10 EUR-12 NEA-10

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R 201852Z JUN 75

FM AMEMBASSY LONDON

TO SECSTATE WASHDC 2200

AMEMBASSY DOHA

AMEMBASSY SAN JOSE

INFO AMCONSUL JOHANNESBURG

AMEMBASSY PARIS

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THINGS GET. IN THIS SUBJECT WE ARE PLAGUED BY FACT THAT BASIC AIR LAW CONVENTIONS ARE NOT NEW, SEPARATE TREATIES, BUT ARE PYRAMIDED, INTER-RELATED SET OF PROTOCOLS TO GRANDFATHER OF THEM ALL, WARSAW CONVENTION OF 1929. TO TRY TO MINIMIZE CONFUSION, WE HAVE PREFERRED TO DESCRIBE POINT 3 AS A PRINCIPLE ONLY. SINCE THERE ARE MANY WAYS TECHNICALLY TO ACHIEVE SUBSTANTIVE RESULT, WE DO NOT WANT TO BE TIED TO ONE PARTICULAR METHOD. IN SHORT, GUATEMALA CONTAINS OLD (HAGUE) CARGO PROVISIONS AND WHEN NEW ONES ARE ADOPTED AT MONTREAL, WE WANT TO HAVE OPPORTUNITY TO BECOME PARTY TO GUATEMALA PASSENGER AND NEW CARGO RULES, AND NOT BE TIED TO OLD CARGO RULES WITH GUATEMALA PASSENGER PROVISIONS. IF THIS OBJECTIVE CAN BE AGREED TO, WE CAN SORT OUT THE PRECISE WAY TO DO IT DURING MONTREAL CONFERENCE. WE LEAVE NATURE OF APPROACH TO LOCAL OFFICIALS, WHETHER BY NOTE OR LESS FORMALLY, TO DISCRETION OF EMBASSIES.

6. FOR DOHA: SELFON LETTER TO GAYED WAS STRICTLY PERSONAL NOTE, BRIEFLY COVERING US INITIATIVE. OFFICIAL CONTACT COVERING INITIATIVE IS ENTIRELY WITH EMBASSY. MENTION OF LETTER WAS SIMPLY TO INFORM YOU THAT GAYED HAS RECEIVED SOME ADVANCE NOTIFICATION.

7. ON BASIS OF SELFON/WILLIS TELECON JUNE 19, POSITION OF NORWAY/UK ON NEW CARGO LIABILITY RULES ADOPTED BY UNCLASSIFIED

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LEGAL COMMITTEE OCTOBER 1975 DESCRIBED FIRST SENTENCE PARA 4 REFTEL B WAS AT BEST AMBIGUOUS, AND WE MORE LIKELY CONVEYED EXACT OPPOSITE MEANING INTENDED. NORWAY/UK OPPOSE CHANGES IN EXISTING LIABILITY REGIME OF HAGUE PROTOCOL; THEREFORE, THEY OPPOSE LEGAL COMMITTEE DECISION OF OCTOBER 1975 FOR STRICT LIABILITY.

8. APPRECIATE INFO COPIES OF CABLE TRAFFIC ON THIS SUBJECT BEING REPEATED TO AMCONSUL JOHANNESBURG FOR FRANK WILLIS TO JULY 10.

RICHARDSON

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: DIPLOMATIC DISCUSSIONS, MEETINGS, DIPLOMATIC PROTOCOL
Control Number: n/a
Copy: SINGLE
Draft Date: 20 JUN 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975LONDON09546
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750216-0028
From: LONDON
Handling Restrictions: n/a
Image Path:
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Legacy Key: link1975/newtext/t19750631/aaaabbvs.tel
Line Count: 435
Locator: TEXT ON-LINE, ON MICROFILM
Office: ACTION EB
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 8
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: 75 PARIS 15791, 75 LONDON 9363
Review Action: RELEASED, APPROVED
Review Authority: ShawDG
Review Comment: n/a
Review Content Flags:
Review Date: 26 FEB 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <26 FEB 2003 by PhilliR0>; APPROVED <10 MAR 2004 by ShawDG>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: ICAO DIPLOMATIC CONFERENCE ON REVISION OF HAGUE PROTOCOL TO THE WARSAW CONVENTION, MONTREAL
TAGS: PORG, EAIR, NO, UK, ICAO
To: STATE SAN JOSE
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006